

James Ward

From: Szklut, Jay [jszklut@belmont-ma.gov]
Sent: Thursday, February 24, 2011 12:40 PM
To: James Ward
Subject: FW: Conservation Restriction

Jay Szklut

Town of Belmont
Planning & Economic Development Manager
617-993-2660

-----Original Message-----

From: Clancy, Glenn
Sent: Thursday, February 24, 2011 8:21 AM
To: Idith Haber
Cc: sdzierzeski@juno.com; Stephanie Liu; Virginia Fuller; Darrell King; Sue Bass; Younger, Thomas; Jones, Ralph; Szklut, Jay; Cushman, Ellen
Subject: RE: Conservation Restriction

Hi Idith:

Lots here to work through, I'll get to it. A quick comment on your post script: the piping that connects Fresh Pond (the source of the pre-treated drinking water) to the reservoir and then back to the City of Cambridge may be in an easement but the reservoir itself is Cambridge owned.

Thanks, I'll be in touch soon.

Glenn

-----Original Message-----

From: Idith Haber [mailto:idithh@gmail.com]
Sent: Thursday, February 24, 2011 7:52 AM
To: Clancy, Glenn
Cc: sdzierzeski@juno.com; Stephanie Liu; Virginia Fuller; Darrell King; Sue Bass; Younger, Thomas; Jones, Ralph; Szklut, Jay; Cushman, Ellen
Subject: Re: Conservation Restriction

Dear Glenn,

Here is the text I want to send along with my forwarded conversation.

I have consulted with 2 attorneys (at every turn), the reviewer/approver of the CR's at the State, Irene del Bono, and read the attached CR Handbook. I will share what I've learned - please contact her at Irene.Del-Bono@state.ma.us. She describes the CR generation and signing process in the 1st reference below:

.
I will try to just make statements of fact and reference,

1.Regardless of the Grantee, the City of Cambridge must approve a CR located in its municipality (CR Handbook - approval by Selectmen page on Model CR).

2. All the versions of the single CR (draft from 2006, 2 from 2010) I've seen refer to "parcel of land located in the Town of Belmont."
I refer to Atty. Bracken's letter which points out that the CR for the portion of the land in Belmont "properly excludes land in Cambridge".

3. There should be 3 (probably different) parties - the Grantor (developer), Grantee, and the approval of municipality.

4. Condition 37 does not refer to a CR from Belmont* either. It refers to a CR for 7.91 acres and the draft CR map has land in Cambridge. There is not enough eligible land in just Belmont. I believe that Atty. Bracken chose his words carefully in saying "a CR from Cambridge is needed to **satisfy** Condition 37".

5. Before proceeding, please clarify which CR document dated 2010 you will ask the developer to sign- The one provided to me by Mr. Szklut which has the Town as the Grantee or the one recently put up on the town website for the Uplands 40B application which has the Belmont Con Com as the Grantee and only a majority (rather than all) of the Selectman have to grant approval. (both attached)

*perhaps if Condition 37 said Belmont explicitly, it may have tipped off a ZBA member.

References:

From Irene Del Bono:

By Email:

(1) First, the parties negotiate the best they can come up with in a CR, using our model CR to work from. Then, they send it to us for review and comment. We fax it back and the parties make the changes or discuss any they have issues with, with us. Then they get their local signatures and those of the grantor and grantee and send it in for the Secretary's signature. We return it for recording.

(2) As you may or may not know, the Belmont ConCom cannot hold property interests in another municipality. do you think the Cambridge ConCom might be the grantee for the Cambridge portion of the open space?

By Phone (as documented in email I sent to Attny):

(3) People need to use her office to make the CR "perpetual". (The requirement from Belmont Zoning Law (not exempted by 40B) is that portions of parcels in another City can be included if they are "permanently restricted to passive Open Space or Open Space uses")

ps. I was told a month ago by Belmont's DPW that the Cambridge Reservoir is an easement.

Apologies for my misstatements.

Sincerely,

Idith